

AMENDED IN ASSEMBLY SEPTEMBER 4, 1997

AMENDED IN ASSEMBLY SEPTEMBER 2, 1997

AMENDED IN ASSEMBLY JUNE 23, 1997

SENATE BILL

No. 383

Introduced by Senator O'Connell

February 14, 1997

An act to amend Sections 77411, 77416, 77421, 77425, 77430, 77434, 77442, 77481, 77483, and 77485 of the Food and Agricultural Code, relating to agriculture.

LEGISLATIVE COUNSEL'S DIGEST

SB 383, as amended, O'Connell. California Strawberry Commission.

(1) Existing law relating to the California Strawberry Commission (a) defines "strawberries" as those produced for commercial purposes and prepared for market within the state and (b) provides that for the purpose of shipper and processor assessments, strawberries include all strawberries marketed within the state regardless of where the strawberries are produced.

This bill, instead, would define "strawberries" as those produced in California for commercial purposes.

(2) Under existing law, the commission consists of 8 districts composed of different geographical areas.

This bill would repeal District 7 which consists of the Counties of Santa Cruz and San Mateo and the City and County of San Francisco and District 8 which consists of the Counties of Alameda, Santa Clara, and San Benito, and would

place these counties within existing District 6 which, under existing law, consists of the County of Monterey.

(3) Under existing law, the commission is composed of 13 producers, 5 shippers, and 5 processors, who are elected from their respective segments, and one public member, who is appointed by the Secretary of Food and Agriculture. Existing law also authorizes the commission to modify the number of producers in each district, and shippers and processors who serve on the commission, and authorizes the commission to elect producers, shippers, and processors to serve as members at large of the commission, provided that the total number of producer, shipper, and processor members does not exceed 28.

This bill would revise the selection of producer members, as specified, to coincide with the changes specified in (2) and would change this latter provision to specify that the total number of producer, shipper, and processor members on the commission shall not exceed 32.

(4) Existing law provides that an alternate member shall serve in place of the member of the commission for whom he or she is the alternate member when the member is absent.

This bill would permit an alternate member to serve in the place of any other absent member of the same classification from the same district if that member's alternate is also absent.

(5) Existing law requires every shipper and processor to keep a complete and accurate record of all strawberries shipped or processed by him or her with the name of the producer whose strawberries were shipped or processed.

This bill, in addition, would require a producer who delivers or markets strawberries to persons other than to a shipper or processor to keep a complete and accurate record of all those strawberries, as specified. Because these provisions would have the result of subjecting these producers to criminal penalties concerning the preparation and submission of reports to the commission, the bill would expand the scope of an existing crime, thereby imposing a state-mandated local program.

(6) Existing law imposes producer assessments upon strawberry producers.



This bill, in addition, would require a producer who delivers or markets strawberries to persons other than a shipper or processor to pay an assessment directly to the commission at the time and in the manner prescribed by the commission.

(7) The bill also would make technical, nonsubstantive changes.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 77411 of the Food and
2 Agricultural Code is amended to read:
3 77411. "Strawberries" mean all strawberries
4 produced in California for commercial purposes.
5 SEC. 2. Section 77416 of the Food and Agricultural
6 Code is amended to read:
7 77416. "Districts" consist of the following:
8 (a) District 1 consists of San Diego, Imperial, and
9 Riverside Counties.
10 (b) District 2 consists of Los Angeles, Orange, and San
11 Bernardino Counties.
12 (c) District 3 consists of Santa Barbara and San Luis
13 Obispo Counties.
14 (d) District 4 consists of Ventura County.
15 (e) District 5 consists of Madera, Fresno, Kings,
16 Tulare, Kern, Inyo, Merced, Stanislaus, San Joaquin, and
17 Sacramento Counties and all other counties within the
18 State of California not included in Districts 1 to 4,
19 inclusive, and District 6.
20 (f) District 6 consists of Alameda, Monterey, San
21 Benito, San Mateo, Santa Clara, and Santa Cruz Counties,
22 and the City and County of San Francisco.

1 The boundaries of any district may be changed by a
2 two-thirds vote of the commission, which is concurred in
3 by the secretary, to ensure proper representation. The
4 boundaries need not coincide with county lines.

5 SEC. 3. Section 77421 of the Food and Agricultural
6 Code is amended to read:

7 77421. "Processor" means any person who performs
8 any of the functions of processing strawberries within
9 California. When a processor is a corporation, all of the
10 directors and officers of the corporation in their capacity
11 as individuals shall be included, and any liability for
12 failure to collect or make payment of assessments for
13 which a corporate processor may be subject pursuant to
14 this chapter shall include identical liability upon each
15 individual director or officer of the corporation. It does
16 not, however, include a retailer, except a retailer who
17 purchases or acquires from, or processes on behalf of, any
18 producer, strawberries that were not previously subject
19 to assessment by the commission.

20 SEC. 4. Section 77425 of the Food and Agricultural
21 Code is amended to read:

22 77425. "Shipper" means any person who performs
23 any of the functions of shipping strawberries within
24 California. When the shipper is a corporation, all of the
25 directors and officers of the corporation in their capacity
26 as individuals shall be included, and any liability for
27 failure to collect or make payment of assessments for
28 which a corporate shipper may be subject pursuant to this
29 chapter shall include identical liability upon each
30 individual director or officer of the corporation. It does
31 not, however, include a retailer, except a retailer who
32 purchases or acquires from, or ships on behalf of, any
33 producer, strawberries that were not previously subject
34 to assessment by the commission.

35 SEC. 5. Section 77430 of the Food and Agricultural
36 Code is amended to read:

37 77430. (a) There is in the state government the
38 California Strawberry Commission. Except as provided in
39 subdivision (d), the commission shall be composed of 13

1 producers, five shippers, five processors, and one public
2 member.

3 (b) Except as provided in subdivision (d), producers
4 within the respective districts shall elect one member
5 from District 1, two members from District 2, two
6 members from District 3, two members from District 4,
7 one member from District 5, and five members from
8 District 6. Shippers and processors shall be elected by and
9 from shippers and processors, respectively, on a statewide
10 basis without reference to districts. The public member
11 shall be appointed to the commission by the secretary
12 from nominees recommended by the commission.

13 (c) The secretary and other appropriate persons as
14 determined by the commission shall be ex officio
15 members of the commission.

16 (d) The commission may modify the number of
17 producers in each district, and shippers and processors
18 who serve on the commission, and may elect producers,
19 shippers, and processors to serve as members at large of
20 the commission. The total number of producer, shipper,
21 and processor members shall not exceed 32.

22 SEC. 6. Section 77434 of the Food and Agricultural
23 Code is amended to read:

24 77434. Except for the ex officio members of the
25 commission, an alternate member for each member shall
26 be elected in the same manner as the member. An
27 alternate member, in the absence of the member for
28 whom he or she is an alternate, shall serve in place of the
29 member on the commission. An alternate member may
30 also serve in place of any other absent member of the
31 same classification (producer, shipper, or processor)
32 from the same district if that member's alternate is also
33 absent. However, an alternate may not serve in place of
34 more than one absent member at a meeting. An alternate
35 member serving in place of a member shall have and be
36 able to exercise all rights, privileges, and powers of the
37 member when serving on the commission. In the event
38 of death, removal, resignation, or the disqualification of
39 a member, the alternate for that member, or another
40 alternate of the same classification from the same district

1 if the alternate for that member is absent, shall act as a
2 member on the commission until a qualified successor is
3 elected.

4 SEC. 7. Section 77442 of the Food and Agricultural
5 Code is amended to read:

6 77442. A quorum of the commission is a majority of
7 the voting producer members, a majority of the voting
8 shipper members, and a majority of the voting processor
9 members on the commission. Except as provided in
10 Sections 77481.5 and 77499, the vote of a majority of
11 members present at a meeting at which there is a quorum
12 shall constitute an act of the commission.

13 SEC. 8. Section 77481 of the Food and Agricultural
14 Code is amended to read:

15 77481. The commission shall, not later than February
16 1 of each year, establish the assessment for the marketing
17 season that begins February 1 and continues through
18 January 31 of the following year. The assessment shall not
19 exceed the following amounts:

20 (a) Two and one-half cents (\$0.025) per crate, or the
21 equivalent, for strawberries delivered for shipping by
22 producers.

23 (b) Two and one-half cents (\$0.025) per crate, or the
24 equivalent, for strawberries received by shippers from
25 producers.

26 (c) Two and one-half cents (\$0.025) per 14 pounds for
27 strawberries delivered ~~to processors~~ for processing by
28 producers.

29 (d) Two and one-half cents (\$0.025) per 14 pounds for
30 strawberries received by processors for processing from
31 producers.

32 An assessment greater than the amounts in this section
33 may not be charged unless it is approved in accordance
34 with the voting requirements of Section 77462.

35 SEC. 9. Section 77483 of the Food and Agricultural
36 Code is amended to read:

37 77483. Every shipper and processor shall keep a
38 complete and accurate record of all strawberries shipped
39 or processed by him or her with the name of the producer
40 whose strawberries were shipped or processed. A

1 producer who delivers or markets strawberries to persons
2 other than to a shipper or processor shall keep a complete
3 and accurate record of all those strawberries. The records
4 shall contain information required by the commission.
5 The records shall be preserved by the producer, shipper,
6 or processor for a period of two years and shall be offered
7 and submitted for inspection at any reasonable time upon
8 written demand of the commission or its duly authorized
9 agent.

10 SEC. 10. Section 77485 of the Food and Agricultural
11 Code is amended to read:

12 77485. Producer assessments shall be upon the
13 producer. The first shipper or processor of strawberries
14 being assessed shall deduct the assessment from amounts
15 paid by him or her to the producer, and shall be a trustee
16 of the funds until they are paid to the commission at the
17 time and in the manner prescribed by the commission. A
18 producer who delivers or markets strawberries to persons
19 other than to a shipper or processor shall pay an
20 assessment directly to the commission at the time and in
21 the manner prescribed by the commission.

22 SEC. 11. No reimbursement is required by this act
23 pursuant to Section 6 of Article XIII B of the California
24 Constitution because the only costs that may be incurred
25 by a local agency or school district will be incurred
26 because this act creates a new crime or infraction,
27 eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section
29 17556 of the Government Code, or changes the definition
30 of a crime within the meaning of Section 6 of Article
31 XIII B of the California Constitution.

32 Notwithstanding Section 17580 of the Government
33 Code, unless otherwise specified, the provisions of this act
34 shall become operative on the same date that the act
35 takes effect pursuant to the California Constitution.